

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9134 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

RR SINGH

Versus

SECRETARY

Appearance:

MR IS SUPEHIA for Petitioner
MR ANANT S DAVE, learned Govt. Solicitor
for Respondents.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 25/11/98

ORAL JUDGEMENT

On the request of both the sides, the matter is taken up for final disposal.

The petitioner has been working as Stenographer Grade II with the respondents. He remained on leave for certain period. The case of the respondents is that he avoided the duties assigned to him and remained absent

from duties in an unauthorised manner and, therefore, the order dt.13.1.98 was passed against him for recovery of salary already paid to him for the period of his unauthorised absence. There is no dispute that the petitioner had sufficient number of days of leave to his credit. Mr.Dave submits that, that period of unauthorised absence can be adjusted against his leave due and the salary for this period may also not be recovered, but that will not absolve the petitioner from the appropriate disciplinary action against him for the misconduct of unauthorised absence and avoiding the duties as was assigned to him. Mr.Supehia for the petitioner submits that the petitioner is prepared to face the disciplinary action.

In the facts and circumstances of this case, it is directed that the salary already paid to the petitioner for the period of his absence, as has been mentioned in the order dt.13.1.98, shall not be recovered from him, but it will be open for the respondents to proceed against the petitioner departmentally for appropriate disciplinary action and the consequences for the misconduct and to pass appropriate orders in accordance with law. This Special Civil Application is, therefore, partly allowed with the observations, as aforesaid. Rule is also made absolute to the limited extent as above. No order as to costs.